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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/811,119

03/26/2004

James W. Owens

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EXAMINER

UNELUS, ERNEST

ART UNIT

PAPER NUMBER

2187

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/811,119	Applicant(s) OWENS ET AL.	
	Examiner Ernest Unelus	Art Unit 2187	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/26/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The instant application having Application No. 10/811,119 has a total of 42 claims pending in the application; there are 6 independent claims and 36 dependent claims, all of which are ready for examination by the examiner.

I. INFORMATION CONCERNING OATH/DECLARATION

Oath/Declaration

2. The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in 37 C.F.R. 1.63.

II. INFORMATION CONCERNING DRAWINGS

Drawings

3. The applicant's drawings submitted are acceptable for examination purposes.

III. ACKNOWLEDGEMENT OF REFERENCES CITED BY APPLICANT

4. As required by M.P.E.P. 609(C), the applicant's submissions of the Information Disclosure Statement dated March 26, 2004 is acknowledged by the examiner and the cited references have been considered in the examination of the claims now pending. As required by M.P.E.P 609 C(2), a copy of the PTOL-1449 initialed and dated by the examiner is attached to the instant office action.

IV. REJECTIONS BASED ON PRIOR ART

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-42**, are rejected under 35 U.S.C. 102(b) as being anticipated by Konishi et al. (US pub. 2002/0003576).

7. As per **claim 1**, Konishi discloses “a method for dynamically processing data (see **paragraph 0004**), the method comprising the steps of: determining a sustainable data transfer rate between a data appliance (**camera 11 in fig. 1**) and an external memory medium [(**external memory card 122 in fig. 1**) [according to **paragraph 0144 or fig. 31**, “*determining a sustainable data transfer rate*” is deciding whether or not the PCMCIA card type is mounted to the camera. If, for example, the card is mounted, the “*sustainable data transfer rate*” will be “FINE”, which transfer data at a bit rate of 1.5Mbps in video mode or 128kbps in internet mode. “FINE” is the default motion]. selecting a value (**setting the default value of the target bit rate**) for at least one operational parameter (**video or internet mode**) within the data appliance (**camera 11**) in response to the sustainable data transfer rate (“NORMAL”, the target bit rate) [(**paragraph 0144 discloses “The default motion video shooting and recording mode is set to a mode at a lower bit rate than in the use of the PCMCIA card type hard disk drive 122 as a recording medium, e.g., NORMAL as a predetermined resolution in the VIDEO mode, or to the INTERNET mode (step S155).** The target

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bit rate can be optimized by automatically setting the default value of the target bit rate in video shooting/recording in accordance with the type of recording medium used”)]; and processing data in accordance with the at least one operational parameter (to “*process the data in accordance with at least one operational parameter*” is to set the default value of the target bit rate in video or in internet mode, as discloses in paragraph 0144. Video or Internet mode being the operational parameter).

8. As per claim 2, Konishi discloses “The method of claim 1,” [See rejection to **claim 1 above**], “wherein determining a sustainable data transfer rate between a data appliance and an external memory medium comprises transferring a test file between the data appliance and the external memory medium [(with respect to this limitation, page 3 of the applicant’s specification discloses “*The test file contains a digital representation of video data*”). Similarly, Konishi, in paragraphs 0127 and 0128, discloses an index file, which is also a DCF file that contain a thumbnail image. Konishi also discloses in paragraphs 0127 and 0128 that the index file is a representation of the main file or a video image. It is also well know in the art of camera to have a thumbnail of an image, which is a smaller or representation of the actual big picture].

9. As per claims 3 and 19, Konishi discloses “wherein selecting a value for at least one operational parameter comprises identifying a data acquisition parameter” [(with respect to this limitation, pages 5 and 6 of the applicant’s specification discloses the

acquisition parameter as the capturing unit, which is a sensor or a photodetector).

Similarly, Konishi discloses a sensor (see paragraph 0013) see also paragraph 0059].

10. As per **claim 4**, Konishi discloses “wherein processing data in accordance with the at least one operating parameter comprises acquiring and formatting image data (see **paragraph 0057, where the data is formatted).**

11 As per **claims 5, 15, 20, 29, 36, and 39**, Konishi discloses “wherein identifying a data acquisition parameter comprises changing at least one of a value associated with spatial resolution and frame rate (**paragraph 0017 discloses changing the frame rate).**

12. As per **claims 6, 22, 28, and 35**, Konishi discloses “wherein selecting a value for at least one operational parameter comprises identifying a data compression parameter (**the data being compressed is discloses in fig. 1).**

13. As per **claims 7, 16, 23, 30, 37, and 40**, Konishi discloses “wherein identifying a data compression parameter comprises changing at least one of an indicator associated with a bit rate, a frame type, and a search area for motion vectors (**see paragraph 0061).**

14. As per **claim 8**, Konishi discloses “wherein selecting a value for at least one operating parameter in response to the sustainable data transfer rate comprises determining a desired data transfer rate responsive to the sustainable data transfer rate (**see paragraph 0144).**

15. As per **claims 9 and 21**, Konishi discloses “A data appliance (**camera 11**), comprising: an acquisition system (**CCD 112 in fig. 1**) configured to acquire data in response to an acquisition parameter (**see paragraph 0059**); a processing system (**video signal processor 113 in fig. 1**) coupled to the acquisition system (**see fig. 1**), the processing system configured to transform data in response to a processing parameter (**see paragraph 0059**); and a memory interface (**frame memory 701 in fig. 23**) coupled to the processing system (**this frame is coupled to the control section which is coupled to the processor**), wherein the data appliance (**camera 11 in fig. 1**) configured to select a value associated with at least one of the acquisition parameter (**CCD 112 in fig. 1**) and the processing parameter (**video signal processor 113 in fig. 1**) responsive to a sustainable data transfer rate between the memory interface and an external memory medium [(**paragraph 0144 discloses “The default motion video shooting and recording mode is set to a mode at a lower bit rate than in the use of the PCMCIA card type hard disk drive 122 as a recording medium, e.g., NORMAL as a predetermined resolution in the VIDEO mode, or to the INTERNET mode (step S155). The target bit rate can be optimized by automatically setting the default value of the target bit rate in video shooting/recording in accordance with the type of recording medium used”**)]].

16. As per **claim 10**, Konishi discloses “The appliance of claim 9,” [See rejection to **claim 1** above], “further comprising: an internal memory (**built-in flash memory 121 in fig. 1**) configured to store a test file (**paragraph 0127 discloses “As shown in FIG. 23,**

the control section 119 comprises an index generator 406. The index generator 406 generates an VGA-size JPEG index file (DCF file) as the index image of an encoded motion video file (ASF), and records the index file on the recording medium (built-in flash memory 121”).

17. As per **claim 11**, Konishi discloses “wherein the memory interface (frame memory 701 in fig. 23) is configured to apply the test file to measure a sustainable data transfer rate [(with respect to this limitation, page 3 of the applicant’s specification discloses “*Some systems and methods described herein for responding to a data transfer measure or otherwise determine*”). In other word, according to the specification, the word “measure” is used interchangeably with determine. Similarly, Konishi discloses determining the sustainable data transfer rate using the memory interface (frame memory 701) see paragraphs 0127 and 0144].

18. As per **claims 12, 13, 41, and 42**, Konishi discloses “wherein the sustainable data transfer rate is associated with a data write/read operation (paragraphs 0136 discloses read/write operation).

19. As per **claims 14**, Konishi discloses “wherein the data appliance comprises a digital camera (see camera 11 in fig. 1).

20. As per **claims 17**, Konishi discloses “wherein the data appliance (camera 11) applies a predetermined set of parameter values responsive to a range of sustainable data

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transfer rates between the memory interface and an external memory medium (see paragraph 0144).

21. As per **claims 18**, Konishi discloses “A system for responding to a data transfer rate (see paragraph 0144), comprising: means for determining a sustainable data transfer rate for data transfers to/from an external memory medium (**external memory card 122 in fig. 1**) coupled to the system (**the camera 11**) [according to paragraph 0144 or fig. 31, “*determining a sustainable data transfer rate*” is deciding whether or not the PCMCIA card type is mounted to the camera. If, for example, the card is mounted, the “*sustainable data transfer rate*” will be “FINE”, which transfer data at a bit rate of 1.5Mbps in video mode or 128kbps in internet mode. “FINE” is the default motion; means for acquiring a data stream (paragraph 0070 discloses “The MPEG4 encoder 201 executes motion video compression encoding so as to obtain an encoded bit stream having the designated target bit rate ”); means for transforming the data stream (paragraph 0070 discloses “The MPEG4 encoder 201 executes motion video compression encoding so as to obtain an encoded bit stream having the designated target bit rate ”); and means for selecting a value (setting the default value of the target bit rate) for at least one operational parameter (video or internet mode) associated with the means for acquiring or the means for transforming the data stream (The MPEG4 encoder 201 in fig. 23) in response to the sustainable data transfer rate (“NORMAL”, the target bit rate) [(paragraph 0144 discloses “The default motion video shooting and recording mode is set to a mode at a lower bit rate than in the use of the PCMCIA card type hard disk drive 122 as a recording medium, e.g.,

NORMAL as a predetermined resolution in the VIDEO mode, or to the INTERNET mode (step S155). The target bit rate can be optimized by automatically setting the default value of the target bit rate in video shooting/recording in accordance with the type of recording medium used”)].

22. As per **claim 24**, Konishi discloses “A computer-readable medium (**camera 11 in fig. 1**) having stored thereon an executable instruction set, the instruction set (**the control section 119 in fig. 1**), when executed by a processor (**video signal processor 113 in fig. 1**), directing the processor to perform a method comprising: retrieving a test file (**index file, see paragraph 0127**) and an initial bit rate (**the first frame, see paragraph 0127**) (see also **paragraph 0144**); transferring the test file to an external memory medium responsive to the initial bit rate (**paragraph 0127 discloses “and records the index file on the recording medium (built-in flash memory 121 or PCMCIA card ”)**); determining if a data transfer error condition exists (**see paragraph 0094, which discloses the existence of a data transfer error**); when it is the case that no data transfer error exists (**paragraph 0094 discloses no error will exits when the background or the capturing objects are on a stand still. In other word, there would be no error if someone is recording something that is not moving**), recording the bit rate to generate a sustainable data transfer rate (**see fig. 4, which discloses the recorded the sustainable data transfer bit rate. For example, the sustainable data transfer rate is “NORMAL”, the target bit rate**); when it is the case that a data transfer error exists (**see paragraph 0094, which discloses the existence of a data transfer error**), decreasing the bit rate to generate an interim bit rate and repeating the transferring

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(paragraph 0094 discloses “inter-frame compression processing can be performed at high efficiency”. To perform at high efficiency, as discloses in paragraph 0008, is to transfer the data at high speed. In the same way, when it is the case that a data transfer error exist, there will be low efficiency, which is decreasing of the transfer bit rate. The paragraph, 0094, also discloses “when the user holds the video camera apparatus 11 to shoot a motion video, the image correlation between frames decreases owing to hand blurring, pan, zoom, or short cut-in”. In this situation, someone will experience “interim bit rate”), determining (see paragraph 0082), decreasing (see paragraph 0115), and recording steps (see fig. 11).

23. As per claims 25 and 32, Konishi discloses “The computer-readable medium of claim 24,” [See rejection to claim 24 above], “wherein retrieving a test file and a bit rate comprises retrieving video data” (see rejection to claims 10 and 11 above).

24. As per claims 26 and 33, Konishi discloses “wherein the data transfer error comprises a write/read operation error (see paragraph 0137).

25. As per claims 27 and 34, Konishi discloses “further comprising: selecting at least one operational parameter (video or internet mode) in response to the sustainable data rate (“NORMAL”, the target bit rate) (see fig. 4); and applying the operational parameter (see paragraph 0144).

26. As per claim 31, Konishi discloses “A computer-readable medium (**camera 11 in fig. 1**) having stored thereon an executable instruction set, the instruction set (**the control section 119 in fig. 1**), when executed by a processor (**video signal processor 113 in fig. 1**), directing the processor to perform a method comprising: retrieving a test file (**index file, see paragraph 0127**) and an initial bit rate (**the first frame, see paragraph 0127**) (see also paragraph 0144); transferring the test file to an external memory medium; (**paragraph 0127 discloses “and records the index file on the recording medium (built-in flash memory 121 or PCMCIA card ”**); retrieving the test file from the external memory medium responsive to the initial bit rate (**see paragraph 0127**); determining if a data transfer error condition exists (**see paragraph 0094, which discloses the existence of a data transfer error**); when it is the case that no data transfer error exists (**paragraph 0094 discloses no error will exists when the background or the capturing objects are on a stand still. In other word, there would be no error if someone is recording something that is not moving**), recording the bit rate to generate a sustainable data transfer rate (**see fig. 4, which discloses the recorded the sustainable data transfer bit rate. For example, the sustainable data transfer rate is “NORMAL”, the target bit rate**); when it is the case that a data transfer error exists (**see paragraph 0094, which discloses the existence of a data transfer error**), decreasing the bit rate to generate an interim bit rate and repeating the transferring (**paragraph 0094 discloses “inter-frame compression processing can be performed at high efficiency”**. To perform at high efficiency, as discloses in paragraph 0008, is to transfer the data at high speed. In the same way, when it is the case that a data transfer error exist, there will be low efficiency, which is decreasing of the transfer

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bit rate. The paragraph, 0094, also discloses “when the user holds the video camera apparatus 11 to shoot a motion video, the image correlation between frames decreases owing to hand blurring, pan, zoom, or short cut-in”. In this situation, someone will experience “interim bit rate”), determining (see paragraph 0082), decreasing (see paragraph 0115), and recording steps” (see fig. 11).

27. As per **claim 38**, Konishi discloses “A digital camera (**camera 11 in fig. 1**), comprising: an image acquisition system (**CCD 112**) configured to generate a video data stream[(with respect to this limitation, pages 5 and 6 of the applicant’s specification discloses the acquisition parameter as the capturing unit, which is a sensor or a photodetector). Similarly, Konishi discloses a sensor (see paragraph 0013) see also paragraph 0059]; a data processing system (**video signal processor**) configured to receive and transform the video data stream to generate a compressed data stream (see **fig. 1**); an external memory interface (**PCMICA card 122**) coupled to the data processing system and configured to feed back a sustainable data transfer rate to one of the image acquisition system and the data processing system (see paragraph 0144).

V. RELEVANT ART CITED BY THE EXAMINER

28. The following prior art made of record and not relied upon is cited to establish the level of skill in the applicant’s art and those arts considered reasonably pertinent to applicant’s disclosure. See **MPEP 707.05(c)**.

29. The following reference teaches data transfer rate.

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U.S. PATENT NUMBER

US 2004/0087213

US 5,563,655

VI. CLOSING COMMENTS

Conclusion

a. STATUS OF CLAIMS IN THE APPLICATION

30. The following is a summary of the treatment and status of all claims in the application as recommended by M.P.E.P. 707.07(i):

a(1) CLAIMS REJECTED IN THE APPLICATION

31. Per the instant office action, claims 1-42 have received a first action on the merits and are subject of a first action non-final.

b. DIRECTION OF FUTURE CORRESPONDENCES

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernest Unelus whose telephone number is (571) 272-8596. The examiner can normally be reached on Monday to Friday 9:00 AM to 5:00 PM.

IMPORTANT NOTE

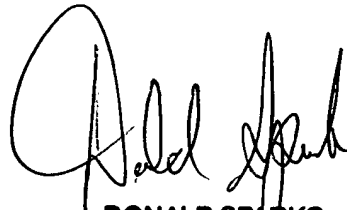
33. If attempts to reach the above noted Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Donald Sparks, can be reached at the following telephone number: Area Code (571) 272-4201.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 26, 2006

Ernest Unelus
Examiner
Art Unit 2187

A handwritten signature in black ink, appearing to read 'Donald Sparks', is positioned above the printed name.

DONALD SPARKS
SUPERVISORY PATENT EXAMINER